

REMARKS/ARGUMENTS

A. In the Specification

1. No paragraphs have been amended in the specification to clarify previously disclosed matter and/or correct language, reference labeling, figure description, and/or syntax. No new matter has been added.

B. In the Claims

1. Claims 21-38 are pending in this application. As reflected in the Complete Listing of All Claims above, Claims 21, 24, 25, 26 and 38 have been amended to correct language, syntax, avoid the citation of the prior art, and/or point out the specific features of Applicant's invention with greater clarity. Claim 37 has been cancelled. No new claims have been added. No new matter has been added.

Regarding the Claim Rejections under 35 U.S.C. 112

2. Applicant acknowledges the quotation of the appropriate paragraph of 35 U.S.C. 112 that forms the basis for the rejections under this section made in the office action.

3. Claim 24 has been rejected under the second paragraph of 35 U.S.C. 112 as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. Applicant found the same problem existed in claims 25 and 26 as well (however, not caught by the Examiner).

(A) As per claim 24, claim 24 recited the limitation "said uncontaminated plant material" in line 3. The examiner has stated that there is insufficient antecedent basis for this limitation in the claim. Applicant agrees. As a result, Applicant has amended claim 24 to delete any mention of "said uncontaminated plant material." No new matter was added.

(B) As per claim 25, claim 25 recited the limitation "said uncontaminated plant material" in line 3. The examiner has stated that there is insufficient antecedent basis for this

limitation in the claim. Applicant agrees. As a result, Applicant has amended claim 24 to delete any mention of "said uncontaminated plant material." No new matter was added.

(C) As per claim 26, claim 26 recited the limitation "said uncontaminated plant material" in line 3. The examiner has stated that there is insufficient antecedent basis for this limitation in the claim. Applicant agrees. As a result, Applicant has amended claim 24 to delete any mention of "said uncontaminated plant material." No new matter was added.

Regarding the Claim Objections

4. Claim 38 was objected to because claim 38 should depend from claim 37, which also refers to carbon dioxide. Applicant agrees, but in light of the amendment of claim 21 to contain the claim 37 language and limitation, claim 38 has been amended to properly depend from claim 21.

Regarding the Claim Rejections under 35 U.S.C. 103

4. Applicant acknowledges the quotation of the appropriate paragraph of 35 U.S.C. 103 that forms the basis for the rejections under this section made in the office action.

5. Claims 21-36 were rejected under 35 U.S.C. 103(a) as being unpatentable over Miyamoto (JP 59022583) or Abd-El Malek et al. (Soil Organic Matter Study, Proc. Symp. 91977). After a personal communication with the Examiner Helen Pratt, the Abd-El Malek reference was removed from the record. Applicant respectfully disagrees with this obviousness rejection based upon the Miyamoto patent alone, in light of the arguments presented below.

(A) As per claim 21, amended claim 21 discloses a method for preparing a consumable nutritional mineral supplement composition by providing plant material, burning the plant material down to ash form, reacting the ash form with organic acids, isolating the reacted form,

and then processing the isolated reacted form to make a consumable nutritional mineral supplement composition, containing carbon dioxide. Miyamoto discloses a process of making a nutritional composition by burning tree material to make ash and then treating the ash with acetic acid to make a stock solution which is then evaporated. However, Miyamoto does not disclose the amended steps, as disclosed in Applicant's invention, of isolating the reacted form of the plant ash and processing the isolated reacted form of the plant ash for the purpose of making a consumable nutritional mineral supplement composition containing carbon dioxide. Also, the Applicant's claimed method produces a different composition than the composition produced by Miyamoto's claimed method. Thus, Applicant's method is not obvious in light of Miyamoto's method because there is no teaching or suggestion in Miyamoto to isolate and process the reacted form of plant ash to make a consumable nutritional mineral supplement composition containing carbon dioxide.

Therefore, because Miyamoto neither teaches nor suggests a method for preparing a consumable nutritional mineral supplement composition that includes the steps of isolating and processing of the reacted form of plant ash to make a consumable nutritional mineral supplement composition containing carbon dioxide, and there are no facts or evidence disclosed in Miyamoto to suggest that the minerals in Miyamoto's composition are absorbed by the fruits or vegetables or consumable apart from coming into contact with the fruits or vegetables, it would not have been obvious to one with ordinary skill in the art to provide a method as claimed by Applicant. Thus, Applicant believes that claim 21, as amended, is now in condition for allowance.

(B) As per claims 22 – 36 and 38, Applicant respectfully disagrees with Examiner's rejection of amended claim 21 as being obvious, and all following claims, namely, claims 22 – 36 and 38 depend from claim 21. As claims 22 – 36 and 38 are dependent on claim 21, given the amendment adding steps neither disclosed in nor suggested in Miyamoto to claim 21, Applicant believes that claim 2 is now in condition for allowance.

(C) As per claim 37, claim 37 is cancelled. Given the amendment adding steps

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previously in claim 37, neither disclosed in nor suggested in Miyamoto to claim 21, Applicant believes that claims 21 – 36 and 38 are now in condition for immediate allowance. Such action by the Examiner is hereby respectfully requested.

CONCLUSION

All of the objections and rejections raised by the Examiner have been addressed by Applicant. Attorney for Applicant has carefully reviewed the cited reference, namely the Miyamoto patent, and believes that the new claims presently on file in the subject application are patentably distinguishable with respect to the prior art. In view of the amendments to the claims and the remarks submitted herein, Applicant submits that all of the new claims of record are in condition for allowance and respectfully requests that a Notice of Allowance be issued in this case in due course.

If it is felt for any reason that direct communication with Applicant's attorney would serve to advance prosecution of this application to allowance, the Examiner is invited to contact the undersigned, attorney of record in this case, Richard D. Clarke, Esq., at one of the listed below numbers or at his below listed e-mail address.

Dated: January 16, 2007

Respectfully Submitted,

LAW OFFICE OF RICHARD D. CLARKE

By 

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